

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

**Sep 23 2025**

S.C. SUPREME COURT

—————  
Certiorari to Berkeley County

Honorable R. Kirk Griffin, Circuit Court Judge  
—————

JOSEPH RUSSELL UMPHLETT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001539  
—————

APPENDIX  
—————

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ATTORNEYS FOR RESPONDENT

**VOLUME III OF III**

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1 Q Is that correct, is that your statement?

2 A I --

3 Q You don't have any reason to --

4 A I have no reason to contest the transcript. No.

5 Q You have no reason to contest it, okay. You read the  
6 transcript, to the best of your recollection?

7 A Yes.

8 Q The court asked you if you objected to the sufficiency, and  
9 you said no?

10 A Correct.

11 Q Okay. I think you clarified. She said is that correct?  
12 What did you say there?

13 A I was here for that. And certainly that is correct, the  
14 date and times in front of Judge Dennis.

15 Q Okay. Do you have any reason to believe that if  
16 Mr. Umphlett had been informed that that's what he was up  
17 against, that if he didn't accept that offer for 25 years that he  
18 would be, you know, stuck in prison until, you know, without the  
19 possibility of parole, until death, do you have any reason to  
20 believe, you know -- disbelieve him when he says I would have  
21 taken that plea if I had known?

22 A I don't have any reason to disbelieve. No. I don't recall  
23 any discussion, so I have no reason to doubt what says, though.  
24 I have no reason to doubt.

25 Q Do you think it, sort of dropping the ball, if you did --

1 let's look at it in the abstract. Not saying you did or you  
2 didn't, because you don't recall, right. If you look at it in  
3 the abstract, and you looked at it -- and probably most of the  
4 time you do, inform them under the statute if they find you  
5 guilty the judge is going to have his hands tied, you're going to  
6 have to stay the rest of your life, do you think that that would  
7 be not meeting the standard, you know, your standard of  
8 explaining the charge and the time like you're supposed to before  
9 a plea?

10 A If you're asking me do I think that I need to make it clear  
11 that --

12 Q That the judge has no discretion.

13 A -- that the judge has no discretion, do I think that's  
14 something that would be, would not meet the burden if I did that?

15 Q Yes.

16 A Yes, I would agree with that statement.

17 Q And you testified you can't recall whether or not you did or  
18 not?

19 A I have no recollection, no.

20 Q You took a look at that, at the email. Did you take a look  
21 at the -- did I show you the notice? Have you seen this? Can  
22 you tell me if there's anything in this notice that informs --  
23 this is from the solicitor. Is there anything in this notice  
24 that informs Mr. Umphlett, the defendant, that, if found guilty  
25 of the trafficking offense, he would automatically face life in

1 prison without the possibility of parole? Anything in that  
2 notice, or does it just say that it's being sought, that relief?

3 A It does say, it uses the term, seek, and it mentions the  
4 statute and the elements that are required in order to meet the  
5 statute.

6 Q Is that something that my client, or that Mr. Umphlett, can  
7 look at or any criminal defendant could see, you know, a lay  
8 defendant, you know, being experienced, being an attorney, can  
9 look at and that say, oh, well, if I'm find guilty I'm going to  
10 get life in prison without possibility of parole, I don't have a  
11 choice if I'm found guilty, or nobody has a choice? Is that  
12 something you can glean from that document, or is it something  
13 that she's going to request it?

14 A Again, when you use the term seek, then obviously I think  
15 that that is what the solicitor would be requesting. Whether or  
16 not it specifically ties the judge's hands or not, I think, is a  
17 question.

18 Q But other than getting advice from his lawyer about what it  
19 means, he would have no other way other than researching the  
20 issue or the statute himself?

21 A Other than what's on the paper itself.

22 ATTORNEY MOORE: I have no further questions at this time,  
23 Your Honor. Thank you.

24 ASS'T ATTORNEY GENERAL DIXON: Just briefly, Your Honor.

25

**CROSS-EXAMINATION**

1  
2 BY ASS'T ATTORNEY GENERAL DIXON:

3 Q How are you today?

4 A Good, thank you.

5 Q Okay. Let's start with the search warrant issue. You did  
6 challenge that pretrial, correct?

7 A I did.

8 Q And do you recall testimony from the police officers that  
9 they smelled marijuana?

10 A Yes, I do.

11 Q Setting aside any credibility issues that you may have with  
12 that statement, would you agree that that would establish  
13 probable cause for a search warrant for marijuana?

14 A I would.

15 Q And do you recall whether the police actually did find  
16 marijuana?

17 A They did.

18 Q They did, okay. And then moving on to -- you've been asked  
19 a lot of questions about this LWOP notice.

20 ASS'T ATTORNEY GENERAL DIXON: May I approach, Your Honor.

21 THE COURT: Yes, ma'am.

22 ASS'T ATTORNEY GENERAL DIXON: May I borrow this?

23 ATTORNEY MOORE: Sure. Absolutely.

24 (Applicant's Exhibit 2 is marked for identification.)

25 Q And I am showing you Applicant's Exhibit 2. From the face

1 of that document, do you see anything that you would need to  
2 challenge in terms of the notice itself?

3 A No.

4 SOLICITOR SCOTT: And, Your Honor, at this time I'd like to  
5 move this into evidence.

6 ATTORNEY MOORE: No objection. I planned on doing it  
7 myself. That's fine.

8 THE COURT: Applicant's 2?

9 ATTORNEY MOORE: Joint exhibit. It's fine.

10 THE COURT: Without objection.

11 (Applicant's Exhibit 2 is admitted into the record.)

12 Q And then I believe you testified on direct that you knew  
13 from reviewing that that it was a mandatory life without parole  
14 situation if he was convicted?

15 A Correct.

16 Q And generally speaking, is that something you would discuss  
17 with your clients when you discuss an LWOP notice?

18 A Certainly.

19 Q Say that again?

20 A Yeah, certainly.

21 ASS'T ATTORNEY GENERAL DIXON: One moment, Your Honor.

22 Q And then going back to Kory Abdon, you did testify that you  
23 were aware that she was someone the defendant had mentioned. And  
24 what was your reason ultimately for not further investigating and  
25 calling her as a witness?

1 A I don't have any real recollection of that. Like I said, in  
2 every case I do sort of a cost-benefit analysis with witnesses.  
3 But what those specific factors were in calling her, I don't  
4 recall.

5 Q But you do recall she had young children --

6 A Yes.

7 Q -- which was kind of the precipitating thing for all of  
8 this?

9 A Correct.

10 Q And do you have concerns about whether she would actually  
11 claim ownership of the drugs in court?

12 A Yes. I feel certain that I would not have specifically  
13 asked her that question simply because I would not want -- I  
14 would worry about perjury, and so I wouldn't have asked her.

15 Q And then do you recall his initial statements to the police  
16 that Mr. Umphlett claimed ownership of the drugs and denied that  
17 she had any knowledge of --

18 A I'm sorry. Repeat that. I'm sorry.

19 Q That's okay. You do recall his initial statements to the  
20 police he claimed ownership of the methamphetamine --

21 A Correct.

22 Q -- and denied that she had any knowledge of the  
23 methamphetamine?

24 A Correct.

25 ASS'T ATTORNEY GENERAL DIXON: Nothing further.

1 THE COURT: Any redirect?

2 ATTORNEY MOORE: No, Your Honor.

3 THE COURT: Thank you, sir. You can step down.

4 THE WITNESS: Thank you, Your Honor.

5 ATTORNEY MOORE: The applicant would rest at this point.

6 THE COURT: All right.

7 ASS'T ATTORNEY GENERAL DIXON: Your Honor, may I have just a  
8 couple minutes?

9 THE COURT: Yes. We'll be in recess. Well, I'm going to  
10 stay right here. We're going to be at ease until the State's  
11 ready.

12 ASS'T ATTORNEY GENERAL DIXON: Thank you.

13 (Pause in the proceedings.)

14 ATTORNEY MOORE: Your Honor, may I, real quickly -- we might  
15 need to reopen. I've have this Exhibit 1, this email, that I  
16 wanted to make sure was part of the record. And the only reason  
17 I mention it now is because I'm not sure who they're going to  
18 call as a witness, the State, so I would like to reopen just for  
19 the purpose of having this made applicant's exhibit, without  
20 objection.

21 THE COURT: Does the State have any objection to the  
22 admission of Applicant's 1, which is apparently the email of the  
23 plea offer?

24 ASS'T ATTORNEY GENERAL DIXON: I think I'm going to object  
25 on hearsay, Your Honor. I'm not sure if there's a hearsay

1 exception for an email.

2 ATTORNEY MOORE: A plea offer.

3 THE COURT: Well, I guess, I guess one could say if the  
4 foundation were laid properly that this could be technically a  
5 business record. I know the back when I was in practice my plea  
6 offers were always submitted via email. It's been testified to.  
7 I'm not going to -- I'm not going to receive the document.  
8 There's no question that Mr. Seaton stated that he reviewed the  
9 offer with Mr. Umphlett, so that evidence is in the record, so  
10 I'll sustain the objection to the actual document.

11 ASS'T ATTORNEY GENERAL DIXON: Thank you, Your Honor. And,  
12 Your Honor, the State doesn't have any further witnesses to call.  
13 I guess I would just like to make a brief argument. I don't know  
14 if you want that now.

15 THE COURT: Yeah. That's fine.

16 ASS'T ATTORNEY GENERAL DIXON: And actually before I begin,  
17 I did want to read into the record the documents that we handed  
18 up with the court packet just for the sake of having a clean  
19 record.

20 THE COURT: Right.

21 ASS'T ATTORNEY GENERAL DIXON: Your Honor, those documents  
22 included all of the filings from this PCR action, to include the  
23 application, the returns, and there's some orders of continuances  
24 in there. It also included the clerk of court records of the  
25 underlying convictions, it included his South Carolina Department

1 of Corrections record, and then it included records from his  
2 direct appeal, including the record on appeal and also the trial  
3 transcript. So I just wanted to state that for the record.

4 And then just brief argument, Your Honor. They've gone  
5 forward on three primary things today, and I'll just address them  
6 briefly.

7 No. 1, there was the issue of not preserving the suppression  
8 motion at trial. And we would just submit, Your Honor, that  
9 based on testimony, trial testimony, from the officers that they  
10 went to do a welfare check, they smelled marijuana coming out of  
11 the room, we would say that that establishes sufficient probable  
12 cause for them to then get a search warrant to search for  
13 marijuana which, of course, they did find marijuana.

14 I'd also note for the record that the defendant did testify  
15 during his direct testimony that he allowed the police officers  
16 into the room when they initially got there for the welfare  
17 check, so we'd submit the officers were in a place that they had  
18 a right to be.

19 And upon smelling marijuana, that established sufficient  
20 probable cause for that search warrant and, therefore, we would  
21 submit there was no prejudice in any failure to preserve this  
22 issue for appellate review because there's no reasonable  
23 likelihood that the appellate courts would have reversed this  
24 issue had it been properly preserved.

25 Moving on to the testimony of Kory Abdon, we would submit

1 that trial counsel articulated a reasonable strategy for not  
2 calling her, but we would further submit that Mr. Umphlett has  
3 not called her as a witness today, and, therefore, cannot prove  
4 any prejudice from trial counsel's failure to call her as a  
5 witness at trial. And just as a cite for that, Your Honor, I  
6 would cite to, I believe it's, *Glover v. State*. And I do not  
7 have the cite for that.

8 THE COURT: That's fine.

9 ASS'T ATTORNEY GENERAL DIXON: But that case does stand for  
10 the proposition that a PCR applicant has to bring the testimony  
11 of a witness in; we can't just speculate as to what she might  
12 have said.

13 And then the final thing about the LWOP notice, we would  
14 just note, first of all, that the notice is facially proper.  
15 There's no objection to be made to the notice itself. He  
16 acknowledged he received it. He acknowledged he was aware of it.  
17 His primary contention today is that he did not know it was a  
18 mandatory issue.

19 Of course trial counsel testified that, generally speaking,  
20 although he can't remember the specific conversation, generally  
21 speaking he would convey that to his client; that that was  
22 something he was aware of.

23 But also note for the record that he did have an opportunity  
24 during trial to accept a 30-year-plea offer which he turned down  
25 at that time, and at that time the judge informed him it was a

1 mandatory life sentence. He made no comment at that time to the  
2 judge about not knowing that. So we would submit that he can't  
3 show there's a reasonable likelihood that he would have done  
4 anything differently had he been, I guess, more clearly informed  
5 that it was mandatory.

6 THE COURT: All right. Thank you. Anything further from  
7 the applicant?

8 ATTORNEY MOORE: Your Honor, I feel like we've proven our  
9 case. I feel like we've established ineffective assistance of  
10 counsel with respect to the three matters that we've identified  
11 that involve that.

12 And particularly -- or that involve the allegation.  
13 Particularly, there's two allegations: One, dealing with the  
14 admission of the evidence and the failure to preserve the issue  
15 at trial, which the appellate court found specifically to have  
16 been not preserved; and the failure to -- and particularly the  
17 failure of trial counsel to inform my client, inform  
18 Mr. Umphlett, of the mandatory nature of the sentencing in the  
19 event that he's found guilty. We feel like we've met the burden  
20 there.

21 We've met the burden with respect to the evidence situation  
22 that was not preserved at trial because trial counsel admitted  
23 that he missed the mark, admitted that he was ineffective as  
24 counsel. And, I mean, I read straight from the test, the  
25 two-prong test, and he admitted that it was of consequence; that

1 in all probability the resulted appeal would have been different.

2 And that's the only testimony we have on that issue from  
3 someone who is very well trained by virtue of education, age, and  
4 experience to testify. I thought it was big of him to admit that  
5 he missed the mark. I thought it was big of him to explain the  
6 details of the law and how it was an issue with which he should  
7 have prevailed, and admit that it was something that should have  
8 been preserved for the appellate court on appeal.

9 Now, with respect to the situation involving the notice, you  
10 know, I don't believe there's prosecutorial misconduct there  
11 because I feel like, to some extent, as I think about it, you  
12 know, the solicitor's got to rely on defense counsel to explain  
13 things, you know, better. And, yes, she could have put in there,  
14 her intent, the LWOP, but it's up to the attorney for the  
15 defendant to explain whether it's mandatory or not pursuant to  
16 the statute.

17 The only testimony we have on this is from my client, from  
18 Mr. Umphlett. Mr. Umphlett specifically said that he was not  
19 informed until trial of what he was facing. Well, aside from the  
20 fact that he should have been notified, really, within 10 days --  
21 and maybe the solicitor met her part of the burden -- certainly  
22 it was Mr. Seaton's burden which, you know, and all evidence  
23 seems to point that he didn't meet at that time, this time, to  
24 explain to him before a plea of the nature. I mean, it's asked  
25 in every case, the circuit judge, General Sessions judge, when

1 it's a plea, did you read and understand the charges against you?  
2 Did your attorney explain those charges to you and what you're  
3 facing?

4 And in this case the only testimony we have is from one  
5 person who says he didn't. And counsel himself, trial counsel  
6 himself, couldn't recall one way or the other. You know. Just  
7 to say that, yeah, it's my practice, that's not testifying that  
8 he did any particular thing. So, you know, we really feel like  
9 with respect to that, especially given the fact I want to speak  
10 to the question of how it made a difference. Obviously in these  
11 cases you have to prove that not only was there this ineffective  
12 assistance counsel but it would have changed how things would  
13 have happened, and it would have changed the scope of things. Or  
14 we talked about that with respect to the evidentiary question,  
15 but I want to make sure that the Court hears from me on the  
16 question about the, about the, about the plea, about the LWOP  
17 notice.

18 My client has testified -- and he's the only one that  
19 testified one way or the other -- that if he had known that he  
20 would face life in prison without the possibility of parole, if  
21 he had been informed -- and his trial counsel said if I didn't  
22 inform him he was ineffective -- if he had informed me, I would  
23 have pled, I would have taken that plea for 25 years. So it  
24 would have definitely, the situation definitely, would have been  
25 different.

1           Mr. Seaton, Grover Seaton, is a fine attorney, Your Honor,  
2 but this time, with all the -- I guess the situation, that it was  
3 a wild trial, it was a long trial, and it was well thought, you  
4 know, some ball's going to drop. You know, I dropped it. I've  
5 been ineffective. Trials are hard. Sometimes you make mistakes.  
6 In this case there were mistakes, and they should be remedied.

7           And I'll just end with that. And I thank you for your time,  
8 and thank opposing counsel for ...

9           THE COURT: All right. It's only in extreme circumstances  
10 that I rule from the bench in these matters, so I'm going to take  
11 this case under advisement. It will probably be a few weeks  
12 before you all hear from me. I'll notify the parties via email  
13 with my decision and direct the prevailing party to prepare an  
14 order. Thank you all very much.

15           ASS'T ATTORNEY GENERAL DIXON: Thank you, Your Honor.

16           THE COURT: Thank you.

17           ATTORNEY MOORE: Thank you.

18           (End of Transcript of Record.)  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

1  
2 I, Cathy J. Provost, Official Court Reporter for the  
3 Fourteenth Judicial Circuit of the State of South Carolina, do  
4 hereby certify that the foregoing is a true, accurate and  
5 complete Transcript of Record of the proceedings had and evidence  
6 introduced in the trial/proceedings of the captioned case in the  
7 Court of Common Pleas for Berkeley County, South Carolina, on the  
8 17th day of April, 2023.

9 I do further certify that I am neither of kin, counsel, nor  
10 interest to any party hereto.

11  
12 Date: February 28, 2025

13  
14 \s\ Cathy J. Provost  
15 Cathy J. Provost, RMR  
16 Official Circuit Reporter  
17  
18  
19  
20  
21  
22  
23  
24  
25

1016  
May 12, 2014

---

**From:** Jessica Nickles  
**Sent:** Thursday, August 06, 2015 2:34 PM  
**To:** 'Beau Seaton'  
**Subject:** State v. Joseph Umphlett -- Offer (expires August 28, 2015)

Mr. Seaton,

I would like to resolve Mr. Umphlett's oldest case, Indictment Numbers 2014GS0801525-258, for trafficking meth 3rd 100-200g, possession of a weapon during a violent crime, possession of a stolen pistol, and possession of a weapon by a person convicted of a violent felony. Because of his record, I cannot make much of an offer; however, I will dismiss the possession of a weapon by a person convicted of a violent felony if he will plead to the other charges. This offer expires August 28, 2015, and in order to accept this offer, you client must plead guilty as outlined above on or before the expiration date.

As we discussed on the phone, if your client does not accept this offer, I will place this case on the trial docket beginning September 14, 2015, and I will serve him with notice of intention to seek a sentence of life without parole.

Additionally, if at any time, you wish to inspect/compare discovery, please let me know, and I will make my file available to you. Since I inherited this case, I want to be sure you have all discovery.

Regards,

**Jessica Godwin Nickles**

Assistant Solicitor

Ninth Judicial Circuit of South Carolina

300-B California Avenue



STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

vs.

JOSEPH RUSSELL UMPHLETT,  
DEFENDANT.

1017  
IN THE COURT OF GENERAL SESSIONS  
NINTH JUDICIAL CIRCUIT

**NOTICE OF INTENTION TO SEEK  
SENTENCE OF LIFE WITHOUT PAROLE**

Arrest Warrant #2014A1820500288

Indictment #2014GS0801525

TO: JOSEPH RUSSELL UMPHLETT, DEFENDANT, AND GROVER "BEAU" C. SEATON, IV, ATTORNEY FOR THE DEFENDANT:

PLEASE TAKE NOTICE that at the trial of the above entitled action to be scheduled on a date at least ten (10) days hence, of which you will be timely notified, the State will seek to have the defendant sentenced to a term of imprisonment for life without the possibility of parole, pursuant to South Carolina Code of Laws Section 17-25-45 (1995 as amended). This notice is based upon the Defendant's prior conviction(s) for the offense(s) of South Carolina Code Ann. Section 44-53-370(e): Trafficking Cocaine Greater than 10 grams but less than 28 grams, 2nd offense and two convictions for South Carolina Code Ann. Section 44-53-445(B)(1): Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of a school.



Jessica G. Nickles  
Assistant Solicitor  
Ninth Judicial Circuit

Moncks Corner, South Carolina

Dated: August 27, 2015

Served in court  
8/27/2015 - Judge Dennis  
refused to sign

LIFEWO



1018

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

vs.

JOSEPH RUSSELL UMPHLETT,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

**ACKNOWLEDGEMENT OF SERVICE  
OF NOTICE OF INTENTION TO SEEK A  
SENTENCE OF LIFE WITHOUT PAROLE**

Arrest Warrant #2014A1820500288

Indictment #2014GS0801525

Service of the Notice of Intention to Seek a Sentence of Life Without Parole acknowledged, and copy retained this 27 day of August, 2015 at Charleston, South Carolina.

*Refused to sign*

GROVER "BEAU" C. SEATON, IV  
ATTORNEY AT LAW

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

VS.

JOSEPH RUSSELL UMPHLETT,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

**ACKNOWLEDGEMENT OF SERVICE OF  
NOTICE OF  
INTENTION TO SEEK  
SENTENCE OF LIFE WITHOUT PAROLE**

Arrest Warrant #2014A1820500288

Indictment #2014GS0801525

Service of the Notice of Intention to Seek a Sentence of Life Without Parole acknowledged, and copy retained this 27 day of August, 2015 at Charleston, South Carolina.

Refused to sign  
Joseph Russell Umphlett, Defendant

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

Joseph Russell Umphlett, #251793,

Applicant,

v.

State of South Carolina,

Respondent.

COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Case No. 2018-CP-08-02064

**ORDER OF DISMSISAL**

**FILED**

JUL 2 4 2025



CASE \_\_\_\_\_ NO \_\_\_\_\_  
LEAH GUERRY DUPREE  
CLERK OF COURT  
BERKELEY COUNTY, SC

This matter is before the Court by way of an application for post-conviction relief filed by Joseph Russell Umphlett. (Applicant) on October 16, 2018. On ~~10/16/18~~ <sup>April 17, 2023</sup> <sup>DKE</sup>, an evidentiary hearing convened before the Honorable R. Kirk Griffin. Applicant was present and represented by Michael D. Moore, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. Applicant testified at the hearing and called as a witness trial counsel Grover C. Seaton, IV, Esquire. Following a thorough review of the records before this Court and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies and dismisses this application with prejudice.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In October 2014, Applicant was indicted by the Berkeley County Grand Jury for trafficking methamphetamine, possession of a weapon during the commission of a violent crime and possession of a firearm by a convicted felon (2014-GS-08-1525;-1526;-1528). On September 28, 2015, Applicant proceeded to a jury trial before the Honorable Kristi L. Harrington. Grover Seaton, Esquire represented Applicant. Assistant Solicitors Jessica Nickles and Wilton McNeely, represented the State. The jury convicted Applicant as indicted, and Judge Harrington sentenced

him to life pursuant to the recidivist statute.

Applicant filed a timely notice of appeal, which was perfected by Appellate Defender John Harrison Strom. On appeal, Applicant argued the trial court erred in (1) denying his motion to suppress and (2) , The South Carolina Court of Appeals affirmed Applicant's conviction on May 24, 2017. State v. Umphlett, Op. No. 2017-UP-386 (filed Oct. 18, 2017). The remittitur was sent November 3, 2017.

#### CURRENT APPLICATION

On October 16, 2018, Applicant timely filed this application alleging he is alleging:

1. Ineffective Assistance of Counsel;
2. Prosecutorial Misconduct violative of Petitioner's constitutional rights;
3. Violation of either or both the U.S. and/or S.C. Constitutions, and specifically Amendments 4, 5, 6 & 8 of the United States Constitution and the equivalent SC Constitutional Provisions protecting the same rights;
4. The Failure by trial counsel to offer witness testimony and other evidence at trial, the same constituting ineffective assistance of counsel and otherwise rendering the conviction and associated sentence unjust, violative of Petitioner's right to effective assistance of counsel pursuant to the 6 and 14 Amendment of the US Constitution: and likewise violative of Petitioner's right to confrontation of witnesses and evidence against him under the 6 and 14 Amendment: and also violative of Petitioner's Due Process rights afforded under the 5 and 14 Amendments of the US Constitution and South Carolina Constitutional Provisions providing similar rights thereunder;
5. "Trial counsel failed to object to evidence sought to be admitted into evidence at trial by the Prosecution after initially failing to prevail on your Petitioner's motion to suppress evidence, and as a result, counsel failed to preserve for appeal the issue of the improper admission of evidence that counsel originally sought to suppress; thereby rendering trial counsel's assistance ineffective;
6. "Law enforcement/Prosecution failed to avoid conflict of interest

and violated the procedural and substantive due process rights of Petitioner insomuch as the "lead" officer, Hobie Williams, related to the Applicant by marriage, himself admitted to having incomplete incident reports, failed to provide dash cam/body mic audio and video in discovery and may in fact have lost or destroyed the said dash cam/body mic audio and video, which if provided, would likely have been exculpatory in nature and would have aided toward a possible dismissal of charges, acquittal, or a finding that Petitioner was not guilty at trial;

7. "Petitioner was denied his right to procedural and substantive Due Process as a result of law enforcement failing to produce exculpatory evidence vital to Petitioner's defense and/or in otherwise allowing that evidence to be lost or destroyed prior to trial. The testimony of a material witness, Kory Abdon, was not properly secured by Petitioner's trial counsel, whom, if called to testify, would have been likely to provide evidence exculpatory in nature and likely would have resulted in a verdict of not guilty;

8. Trial counsel was ineffective as counsel when he failed to inform Petitioner of the Solicitor's offer of twenty-five years in prison in time for Petitioner to make an informed, intelligent and voluntary plea, and further, trial counsel never informed Petitioner that if found guilty after trial Petitioner would be subject to a sentence of life in prison without the possibility of parole. Alternatively, the Prosecution failed to seasonably communicate its offer of 25 years or the alternative, its intent to seek life in prison without the possibility of parole sufficiently in advance of Petitioner's trial to afford your Petitioner a meaningful opportunity to enter into an intelligent and voluntary plea, which Petitioner would have accented if he had been seasonably advised;

9. Petitioner/Applicant is informed and believes that the statutory framework allowing for a sentence of Life without the possibility of parole in the present circumstance constitutes cruel and unusual punishment prohibited by the 8 Amendment of the United States Constitution and any S.C. equivalent constitutional provision.

At the start of the hearing, Applicant relayed he was proceeding on the following allegations of ineffective assistance of counsel:

1. Counsel failed to contemporaneously object to the drug evidence at trial and thus failed to preserve the denial of his motion to suppress;

2. Counsel failed to investigate and call as a witness Kory Abdon;
3. Counsel failed to explain to Applicant that the State's notice of intent to seek life without parole meant the judge would have no discretion in sentencing, thereby causing Applicant to reject a twenty-five-year plea offer; and
4. Counsel failed to explain to Applicant that the State's notice of intent to seek life without parole meant the judge would have no discretion in sentencing, thereby causing Applicant to reject a thirty-year plea offer during trial.

As set forth more fully below, this Court finds Applicant did not prove any of these allegations.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Berkeley County Clerk of Court records of the underlying convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

#### *Ineffective Assistance of Counsel*

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudiced applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise

of reasonable professional judgment.” Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove counsel’s deficient performance prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625.

*Failed to object*

Applicant first contends counsel was ineffective for not contemporaneously objecting to drug evidence entered at trial, thus leaving the denial of his motion to suppress drug evidence unpreserved for appeal. Applicant did not prove this ground.

The failure to object to the evidence admitted after initially failing to prevail on the motion to suppress is deficient performance under the first prong of the Strickland test. Where trial counsel makes a motion in limine, it is not preserved for appellate review as a motion in limine is not a final determination. State v. Wood, 362 S.C. 520, 526, 608 S.E.2d 435, 438 (Ct. App. 2004). Trial counsel must make a contemporaneous objection to preserve the issue. Id. In this case, Mr. Umphlett’s trial counsel made a motion in limine to suppress evidence, which was not granted. Additionally, his counsel did not object to the admission of this evidence at trial. Further, the South Carolina Court of Appeals found this issue was unpreserved, and at the PCR hearing, counsel did not have a valid reason for not objecting when the drug evidence was admitted at trial. Mr. Umphlett’s trial counsel’s failure to object here would be deficient performance.

However, this claim fails under the second prong of Strickland. Petitioner failed to establish prejudice. To determine if a PCR applicant has established prejudice, the trial court views the trial court’s ruling through the same lens that is used on appeal. Milledge v. State, 422 S.C. 366, 380,

811 S.E.2d 796, 804 (2018). Here, there is evidence in the record to support the trial court's ruling that probable cause existed for the search and the subsequent seizure of the evidence. Specifically, the officers testified they went to the hotel room to conduct a child-welfare check. See State v. Counts, 413 S.C. 153, 174 n.7, 776 S.E.2d 59, 71 n.7 (2015) ("In the instance of a 'welfare check,' the implicit license to approach a home as referenced in Florida v. Jardines, [569 U.S. 1 (2013)], is applicable."). Once Applicant opened the door, officers immediately smelled marijuana. (Tr. 53, 83, 106). This provided the requisite probable cause to obtain the search warrant. See State v. Lane, 271 S.C. 68, 72, 245 S.E.2d 114, 116 (1978) ("*[T]he odor emanating from the packages alone was a sufficient basis to establish probable cause* as to their contents when it is considered that an officer of the law, familiar with the odor of marijuana, believed the odor being emitted was that of marijuana." (emphasis added)).

Once officers smelled marijuana, they were justified in entering the room, locating and detaining the occupants, and securing the premises to prevent the destruction of evidence and ensure there were no hidden threats. See United States v. Cephas, 254 F.3d 488, 496 (4<sup>th</sup> Cir. 2001 (finding officer's warrantless entry justified by exigent circumstances, namely preventing the destruction of evidence, after officer smelled marijuana coming from the apartment); United States v. Grissett, 925 F.2d 776, 778 (4<sup>th</sup> Cir. 1991) (finding exigent circumstances justified warrantless entry of motel room after officers smelled marijuana through open door). This case had the added exigency of verifying whether children were present, especially when toys and children's clothes were in the room. (Tr. 123-24, 334). See Brigham City, Utah v. Stuart, 547 U.S. 398, 403 (2006) ("One exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury."). Even if officers could not enter the room to verify whether children were present or based on the smell of marijuana, the search warrant was

still validly obtained based on the probable cause established by the smell of marijuana. See, e.g., Lane, 721 S.C. at 70, 245 S.E.2d at 115 (finding probable cause for a warrant based on the smell of marijuana was established prior to an unlawful search of a package, such that contents of second package—which was not unlawfully searched—was admissible at trial).

Although the failure to object to the admission of the evidence constitutes deficient performance, that deficient performance did not prejudice the defendant so as to impair his right to a fair trial. Based on the foregoing, it is not reasonably probable this issue would have been reversed on appeal had it been preserved. This claim is thus denied.

*Failed to call witness*

Applicant next contends counsel was ineffective for failing to investigate and call as a witness Kory Abdon. However, Applicant did not call Abdon as a witness—leaving this Court to speculate as to what her testimony would have been and whether it would have benefited Applicants' case. See Glover v. State, 318 S.C. 496, 498–99, 458 S.E.2d 538, 540 (1995) (“In order to support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice.”). Applicant thus failed to prove prejudice.

Further, counsel articulated a valid reason for not further investigating or calling Abdon as a witness. Counsel testified he was aware of Abdon, but she did not provide any statements he could use for impeachment in the event her testimony was unfavorable. He explained she was a wildcard, and he had concerns about putting her on the stand without knowing what she would say. He further testified he was not comfortable that she would actually take the stand and claim

the drugs belonged to her. Counsel testified Abdon was in rehab at the time of trial, and he was thus unable to subpoena her for trial. Although he acknowledged he could have moved to continue the trial, he felt it was a better strategy to “us[e] her as the boogeyman, that those were hers, and she’s not here to testify.” Counsel testified, “It was a strategic decision to simply say that she was at the scene and was not questioned or arrested or called as a witness.” This Court finds the foregoing strategy reasonable under prevailing professional norms and not deficient. Applicant thus failed to prove deficiency or prejudice, and this claim is denied.

*Life without parole Notice*

At the hearing, Applicant asserted the life without parole (LWOP) notice did not put him on notice that the judge would have to sentence him to life if he was convicted. He further asserts that had he understood the judge would not have any sentencing discretion, he would have accepted a twenty-five-year offer the State made before trial, or a thirty-year-offer the State made during trial. This contention patently lacks merit.

Although Applicant’s PCR counsel insinuated the recidivist statute is ambiguous as to whether a life sentence is mandatory, trial counsel testified he understood that if Applicant was convicted of trafficking, “the judge had no discretion, it wasn’t a matter of seeking, . . . [a life sentence] would automatically be the case if he was convicted.” (PCR 51). Trial counsel reiterated that he understood going into trial that Applicant “would automatically get life without possibility of parole” if convicted. (PCR 55). This Court finds credible counsel’s testimony that he understood the LWOP notice meant the trial judge would not have any sentencing discretion. Applicant’s attempt to make the recidivist statute seem ambiguous is nothing more than a red herring here where counsel repeatedly, unequivocally, and correctly reiterated that the judge would not have any sentencing discretion based on the LWOP notice. (PCR 51, 55, 61).

Although counsel could not specifically recall having this conversation with Applicant, he testified it would have been his normal practice to explain the LWOP notice. (PCR 51 ,61). It is NOT credible to believe that counsel would not have explained to Applicant what the LWOP notice meant, especially here where counsel clearly and unequivocally relayed his proper understanding of its meaning and stated it would be his normal practice to explain it to clients.

This Court finds NOT credible Applicant's assertion that he did not understand he faced a mandatory life sentence if convicted until he turned down the thirty-year offer during trial. This Court further finds NOT credible Applicant's testimony that he would have accepted the pretrial twenty-five-year offer if he understood the life sentence would be automatic. At the PCR hearing, Applicant admitted he turned down a twenty-five-year plea offer, and at that time he saw the State's Notice of Intent to Seek LWOP (Applicant's Ex. 2).<sup>1</sup> Applicant further admitted he knew the State was seeking life—which means he understood a life sentence was a possibility when he turned down both offers. Critically, Applicant admitted that when he turned down the thirty-year offer during trial, he understood the life sentence would be mandatory.<sup>2</sup> Applicant took the risk of

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<sup>1</sup> Applicant also told the trial judge he had turned down the twenty-five-year offer. (Tr. 43-45).

<sup>2</sup> In fact, the trial judge explained this to him on the record:

The Court: . . . [Y]ou understand that should you be found guilty—I just need you to understand this completely. I will have no discretion once you are found guilty—

Mr. Umphlett: Yes, Your Honor.

The Court: --should the jury find you guilty. Do you understand?

Mr. Umphlett: Yes, Your Honor.

The Court: That it will be a life sentence for you. Mr. Seaton can't argue for leniency. That is what it is.

trial knowing he faced life if convicted when he turned down the thirty-year-offer; if he was willing to take the risk at that time, it is not credible to believe he would have decided NOT to take the risk for an offer that was only five years less. Ultimately, Applicant did not prove counsel rendered any deficient advice, nor did he prove he misunderstood the mandatory nature of the LWOP notice, or that his alleged misunderstanding was the reason he turned down both plea offers. Applicant did not meet his burden, and this claim is denied.

***Original Application***

***1. "Ineffective Assistance of Counsel"***

In this allegation, Applicant fails to make specific factual allegations of ineffective assistance of counsel. He has thus not met his burden in this regard, and this claim is denied.

***2. "Prosecutorial Misconduct violative of Petitioner's Constitutional rights."***

In this allegation, Applicant fails to make specific factual allegations of ineffective assistance of counsel. He has thus not met his burden in this regard, and this claim is denied.

***3. "Violation of either or both the U.S. and/or S.C. Constitutions, and specifically Amendments 4, 5,6, & 8 of the United States Constitution and the equivalent SC Constitutional Provisions protecting the same rights."***

In this allegation, Applicant fails to make specific factual allegations of ineffective assistance of counsel. He has thus not met his burden in this regard, and this claim is denied.

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Mr. Umphlett: Yes, Your Honor.

The Court: Do you need anymore time to meet with Mr. Seaton concerning tis thirty-year offer?

Mr. Umphlett: No, ma'am.

(Tr. 545-46).

*4. The Failure by trial counsel to offer witness testimony and other evidence at trial, the same constituting ineffective assistance of counsel and otherwise rendering the conviction and associated sentence unjust, violative of Petitioner's right to effective assistance of counsel pursuant to the 6 and 14 Amendment of the US Constitution: and likewise violative of Petitioner's right to confrontation of witnesses and evidence against him under the 6 and 14 Amendment: and also violative of Petitioner's Due Process rights afforded under the 5 and 14 Amendments of the US Constitution and South Carolina Constitutional Provisions providing similar rights thereunder."*

In this allegation, Applicant fails to make specific factual allegations of ineffective assistance of counsel. He has thus not met his burden, and this claim is denied.

*5. "Trial counsel failed to object to evidence sought to be admitted into evidence at trial by the Prosecution after initially failing to prevail on your Petitioner's motion to suppress evidence, and as a result, counsel failed to preserve for appeal the issue of the improper admission of evidence that counsel originally sought to suppress; thereby rendering trial counsel's assistance ineffective."*

As set forth more fully above, this claim is denied.

*6. "Law enforcement/Prosecution failed to avoid conflict of interest and violated the procedural and substantive due process rights of Petitioner inasmuch as the "lead" officer, Hobie Williams, related to the Applicant by marriage, himself admitted to having incomplete incident reports, failed to provide dash cam/body mic audio and video in discovery and may in fact have lost or destroyed the said dash cam/body mic audio and video, which if provided, would likely have been exculpatory in nature and would have aided toward a possible dismissal of charges, acquittal, or a finding that Petitioner was not guilty at trial."*

This allegation is without merit. At the hearing, Applicant did not set forth any evidence to show any conflict of interest, nor did he set forth any evidence to show the State withheld exculpatory information. He thus did not meet his burden, and this claim is denied.

*7. "Petitioner was denied his right to procedural and substantive Due Process as a result of law enforcement failing to produce exculpatory evidence vital to Petitioner's defense and/or in otherwise allowing that evidence to be lost or destroyed prior to*

*trial. The testimony of a material witness, Kory Abdon, was not properly secured by Petitioner's trial counsel, whom, if called to testify, would have been likely to provide evidence exculpatory in nature and likely would have resulted in a verdict of not guilty."*

As set forth above, Applicant failed to prove that Kory Abdon would have provided evidence that was exculpatory in nature. Applicant likewise did not set forth any evidence to show the State withheld exculpatory information and thus did not prove this claim.

*8. "Trial counsel was ineffective as counsel when he failed to inform Petitioner of the Solicitor's offer of twenty-five years in prison in time for Petitioner to make an informed, intelligent and voluntary plea, and further, trial counsel never informed Petitioner that if found guilty after trial Petitioner would be subject to a sentence of life in prison without the possibility of parole. Alternatively, the Prosecution failed to seasonably communicate its offer of 25 years or the alternative, its intent to seek life in prison without the possibility of parole sufficiently in advance of Petitioner's trial to afford your Petitioner a meaningful opportunity to enter into an intelligent and voluntary plea, which Petitioner would have accented if he had been seasonably advised."*

This allegation is without merit. The plea offer was rejected on August 27, 2015 on the record in front of Judge Dennis. This claim is thus denied.

*9. "Petitioner/Applicant is informed and believes that the statutory framework allowing for a sentence of Life without the possibility of parole in the present circumstance constitutes cruel and unusual punishment prohibited by the 8 Amendment of the United States Constitution and any S.C. equivalent constitutional provision."*

In this allegation, Applicant fails to make specific factual allegations of ineffective assistance of counsel. Further, Applicant has not set forth any facts or argument to show the sentence imposed here violates the Eighth Amendment. See State v. Jones, 344 S.C. 48, 543 S.E.2d 541 (rejecting Eight Amendment challenge to sentence imposed under recidivist statute); State v. Williams, 380 S.C. 336, 347–48, 669 S.E.2d 640, 646 (Ct. App. 2008) ("Our courts have also determined stiff penalties for drug crimes do not violate the constitutional prohibition against cruel

and unusual punishment.”); *id.* (finding life sentence imposed pursuant to recidivist statute in case where defendant possessed less than half a gram of cocaine did not violate Eighth Amendment). This claim is thus denied.

CONCLUSION

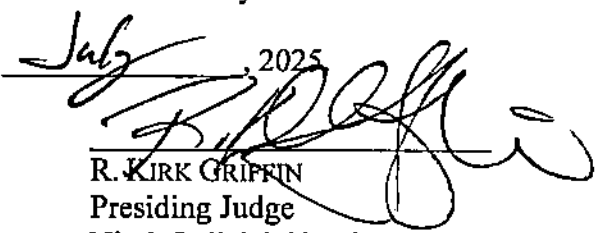
Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel’s assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant’s behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 18<sup>th</sup> day of July, 2025

  
R. KIRK GRIFFIN  
Presiding Judge  
Ninth Judicial Circuit

Sumter, South Carolina

WITNESSES

*[Signature]*  
Summerville Police Department

The State of South Carolina  
County of Berkeley

AGENCY CASE NUMBER

14038000

COURT OF GENERAL SESSIONS

October Term 2014

ARREST WARRANT NUMBER

2014A1820500288

DATE OF ARREST

May 12, 2014

ACTION OF GRAND JURY

**True Bill**

THE STATE

vs.

JOSEPH RUSSELL UMPHLETT

DOB: [REDACTED]

W/M

*[Signature]*  
person of Grand Jury  
Date: 10-7-14

Indictment for

Trafficking Methamphetamine

VERDICT  
*GUILTY*

*[Signature]* 10/1/15  
Foreperson of Petit Jury Date:

INDICT

FILED  
14 OCT -7 PM 12:22  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

*[Handwritten initials]*



WITNESSES

*Ryan Briggs Del. SPD*  
Summerville Police Department

AGENCY CASE NUMBER

14038000

ARREST WARRANT NUMBER

2014A1820500289

DATE OF ARREST

May 12, 2014

ACTION OF GRAND JURY

**True Bill**

*Thomas Martin R.*  
Person of Grand Jury

Date: 10-11-14

VERDICT

*Guilty*

*J. D. S.*  
Foreperson of Petit Jury

Date: 10/1/15

INDICT

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

JOSEPH RUSSELL UMPHLETT

DOB: [REDACTED]

W/M

Indictment for

Possession of a Weapon During Commission  
of a Violent Crime

MAURY P. BROOKMAN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

14 OCT -7 PM 12:22

FILED

*CRB*

*FF*



WITNESSES

*[Signature]*  
Summerville Police Department

101

AGENCY CASE NUMBER

14038000

ARREST WARRANT NUMBER

Direct Indictment

DATE OF ARREST

May 12, 2014

ACTION OF GRAND JURY

**True Bill**

*[Signature]*  
Person of Grand Jury  
Date: 10-7-14

VERDICT

*Bulky*

*[Signature]* 10/1/15  
Foreperson of Petit Jury Date:

-INDICT

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

JOSEPH RUSSELL UMPHLETT

DOB: [REDACTED]  
W/M

Indictment for

Possession of Firearm by Convicted Felon  
CDR: 3434

FILED  
14 OCT -7 PM 12:22  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

*[Handwritten initials]*

*[Handwritten initials]*



STATE OF SOUTH CAROLINA

County of Berkeley

Town of Summerville

OCA: 14038000

SEARCH WARRANT



Date May 12, 2014

Officer Detective Strickland

I HEREBY CERTIFY THIS TO  
BE A TRUE AND EXACT COPY

*J. Brooks*

DATE 9/23/15



STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Berkeley

Personally appeared before me, one Detective Strickland who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Including but not limited to, a quantity of green plant material commonly referred to as Marijuana. Any and all items used to facilitate the distribution, possession, and consumption of Marijuana. Also all items listed in exhibit "A" attached to this affidavit.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

The property to be searched is located at the Economy Inn, 200 Holiday Dr. Room 119, County of Berkeley, Town of Summerville, SC. The residence is better described as a brick two story hotel, comprised of multiple units. The numbers 119, are clearly affixed to the blue front door of the room. Room 119 is the furthest end unit of the main building, on the first floor. Also to be searched, a black in color four door Saturn Ion (SC Tag JUI275) which is known to be driven by Umphlett.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On May 11, 2014, Officers with the Summerville Police Department were dispatched to Room 119 at the Economy Inn in reference to a child welfare check. The complainant stated the mother, Kory Abdon, and her boyfriend, Joseph Umphlett, make the children sit on the bed while they "go to work in the bathroom." The complainant also advised that Abdon and Umphlett have histories of drug use, as well as charges. Upon arrived at Room 119, PFC./K9 H. Williams advised he made contact with Abdon and Umphlett, and detected a overwhelming odor of what he recognized from his training and experience to be Marijuana. PFC./K9 Williams requested consent to search the room, but was denied consent. PFC./K9 Williams advised Umphlett stated there was Marijuana in the nightstand, but denied consent to search the room. PFC./K9 Williams had Abdon and Umphlett exit the room, and contacted your affiant, Det. Strickland. Based on the above facts, I believe probable cause exists that above sought items, namely Marijuana, will be located in Room 119. The recovery of these items is vital to this investigation.

Sworn to and Subscribed before me  
t his 12th day of May, 20 14  
[Signature] (L.S.)  
Signature of Judge

[Signature]  
Affiant

Address: 300 West 2nd North Street  
Summerville, S.C. 29483  
Phone: (843) 871-2463

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Berkeley

Personally appeared before me, one Detective Strickland who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Page 2.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Also to be searched, any occupants of the room, and any lock boxes and containers located therein.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

Page 2.

Sworn to and Subscribed before me this 12th day of May, 20 14  
[Signature] (L.S.)  
Signature of Judge [Signature]

Det. M. Strickland [Signature]  
Affiant

Address: 300 West 2nd North Street  
Summerville, S.C. 29483

Phone: (843) 871-2463

COUNTY OF Berkeley

SEARCH WARRANT

Form Approved by  
S.C. Attorney General  
Session 17.13.160  
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY  
OF Town of Summerville

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED

See attached affidavit.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

See attached affidavit.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Issuing Judge \_\_\_\_\_

within ten days from the date of this warrant, such Inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Summerville, S.C.

May 12th, 20 14

*12644*

Signature of Judge

(L.S.)

**EXHIBIT A**  
**PROPERTY TO BE SEIZED**

- 1.) BOOKS, RECORDS, RECEIPTS, NOTES, LEDGERS, AND OTHER PAPERS, RELATING TO THE TRANSPORTATION, ORDERING, PURCHASE, AND DISTRIBUTION OF CONTROLLED SUBSTANCES.
- 2.) PAPERS, TICKETS, NOTES, SCHEDULES, RECEIPTS, AND OTHER ITEMS RELATING TO DOMESTIC AND INTERNATIONAL TRAVEL
- 3.) BOOKS, RECORDS, RECEIPTS, BANK STATEMENTS AND RECORDS. MONEY DRAFTS, LETTERS OF CREDIT, MONEY ORDERS AND CASHIERS CHECKS, RECEIPTS. PASSBOOKS, BANK CHECKS, SAFE DEPOSIT BOX KEYS, AND OTHER ITEMS EVIDENCING THE OBTAINING, SECRETING. TRANSFER, AND / OR CONCEALMENT OF ASSETS AND TO OBTAINING, SECRETING, TRANSFER, CONCEALMENT AND / OR EXPENDITURE OF MONEY
- 4.) UNITED STATES CURRENCY, PRECIOUS METALS, JEWELRY, AND FINANCIAL INSTRUMENTS, INCLUDING STOCKS AND BONDS ~ AMOUNTS INDICATIVE OF THE PROCEEDS OF ILLEGAL NARCOTIC TRAFFICKING.
- 5.) PHOTOGRAPHS, IN PARTICULAR PHOTOGRAPHS OF CO-CONSPIRATORS, OF ASSETS AND / OR CONTROLLED SUBSTANCES.
- 6.) INDICA OF OCCUPANCY, RESIDENCY, AND / OR OWNERSHIP OF TO PREMISES DESCRIBED ABOVE, INCLUDING, BUT NOT LIMITED TO, UTILITY AND TELEPHONE BILLS, CANCELED ENVELOPES, AND KEYS.
- 7.) RECEIPTS FOR ITEMS EVIDENCING THE EXPENDITURE OF THE PROCEEDS OF DRUG DISTRIBUTION, INCLUDING BUT NOT LIMITED TO CLOTHING, FURNITURE, AND ELECTRONIC EQUIPMENT.
- 8.) WEAPONS.
- 9.) CONTROLLED DANGEROUS SUBSTANCES AND RELATED PARAPHERNALIA.

Summerville Police Department  
Search Warrant Return

Page 1 of 2

Case # 14038000

I Det. Cpl. H. Tanner, received the attached Search Warrant on May 12, 2014,

and have executed it as follows:

On May 12, 2014, at 1:00 o'clock PM (AM), searched the person of \_\_\_\_\_

or the premises at 200 Holiday Drive Room 119 (Economy Inn), which is described in the warrant.

I left a copy of the warrant with Room 119 together with a copy of the receipt

(Name of Person searched or location of premises searched)

for the items seized.

The following is an Inventory of property taken pursuant to the warrant:

By Whom	Item Seized	Location
Det. Cpl. H. Tanner	--Clear bag containing (2) clear bags of crystal like substance. --Pachmayer 9mm Model 75 S# C3629 w/magazine and 15 rounds. --Box of sandwich bags. --Clear bag containing (4) AAA batteries. --Clear bag containing a clear bag of crystal substance and a clear bag of 2 tablets.	BLACK SENTRY SAFE LOCATED ON FLOOR
Det. Cpl. H. Tanner	--Digital scale (Digitz) from night stand --Grinder w/GPM residue, SCID of Umphlett, Nebo tactical pistol light, cut cigar w/GPM, 12 gauge slug, Federal 50 count 9mm ammo box containing (9) bullets and (1) burn GPM cigarette located in night stand drawer. --Ruger LCR .38 Special S# 542-19855 cont. (5) rounds of .38 in cyl.	ROOM 119
Det. Cpl. H. Tanner	located in the night stand drawer. --Box of 20 .38 caliber bullets containing (7) bullets located in brown purse under night stand. --Unmarked silver grinder containing GPM residue located under bed closest to the door. --Clear bag containing GPM located under bed closest to the door.	ROOM 119
Det. Cpl. H. Tanner	--Burnt GPM cigarette located on floor next to bed. --Rolling paper, round mesh screen and two push rods located in a paper bag under night stand. --Nike AFI-XXX shoe box containing (2) clear plastic containers with crystal like residue and two zip lock bags with crystal like residue located on dresser top behind TV.	ROOM 119

This inventory was made in the presence of: Det. Sgt. Thompson and Det. Strickland

I swear that this Inventory is a true and detailed account of all the property taken by me pursuant to the warrant Sworn to before me this

14 day of May, 2014  
[Signature]  
Signature of Judge (L.S.)  
11:15 AM

[Signature]  
Signature of Office Executing Warrant

Summerville Police Department  
Search Warrant Return

1045

Page 2 of 2

Case # 14038000

By Whom

ITEM SEIZED

LOCATION

Det. Cpl. H. Tanner

--Glass pipe located on shelf in closet area.
--Straw with residue located in the purse of Kory Abdon.
--Grinder with skull logo containing GPM located on dresser.
--Keys to safe.
--Iphone cell phone located on top of night stand.
--Verizon flip cell phone located in purse of Kory Abdon.
--Kyocera cell phone located in night stand drawer.

ROOM 119

Det. Cpl. H. Tanner

--Verizon LG cell phone located on bed.
--Ipad located on table.
--Smith and Wesson 9mm bearing S#DYF3905 w/mag containing 12 9mm bullets located in the night stand.

ROOM 119

\_\_\_\_\_


\_\_\_\_\_

\_\_\_\_\_


\_\_\_\_\_

\_\_\_\_\_


\_\_\_\_\_

I swear that this Inventory is a true and detailed account of all the property taken by me pursuant to the warrant.

SWORN to before me this

14 day of May 2014

[Signature]  
Signature of Judge (L.S.)

[Signature]  
Signature of Officer Executing Warrant

11:25 AM